

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
INBOUND E-FORMAT LETTER POST

Docket No. CP2020-120

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO MOTIONS OF
UNITED PARCEL SERVICE INC. AND THE ASSOCIATION FOR POSTAL
COMMERCE REQUESTING ACCESS TO NON-PUBLIC MATERIALS UNDER
PROTECTIVE CONDITIONS**
(April 27, 2020)

For the reasons described below, the United States Postal Service (“Postal Service”) opposes in part the motions requesting access to non-public materials under protective conditions (collectively the “Motions”) filed in this docket by the United Parcel Service, Inc. (“UPS”) and the Association for Postal Commerce (“PostCom”).¹

The scope of the requested access is overbroad. If the Commission is inclined to grant the motions in any part, it should limit the scope of such access.² The motion that UPS filed seeks access to all non-public information that the Postal Service filed under seal in this case with its initial filing on April 10, including all unredacted portions of the two financial spreadsheets, as well as the unredacted rates and Governors’ decision in

¹ United Parcel Service, Inc.’s Motion Requesting Access to Non-Public Materials under Protective Conditions, Docket No. CP2020-120 (April 20, 2020); Motion of the Association for Postal Commerce for Access to Nonpublic Materials, Docket No. CP2020-120 (April 21, 2020).

² In addition to limiting the scope of any access, the Commission should also ensure that its protective conditions are strictly enforced. Those conditions, as embodied in both the movants’ certifications and in the Commission’s rules, see 39 C.F.R. § 3011.304(a)(2), require the filing of notices of termination of access, together with attached certifications of compliance with the conditions executed by each person to whom access had been granted, including certifying that all non-public materials to which access had been granted (and all copies thereof) had been destroyed or returned to the Commission when the Commission issues a final order and the time for appeal has expired. Failure to ensure prompt and full compliance with that rule would present precisely the type of risk of disclosure that the protective conditions are intended to mitigate. In other words, the longer that copies of the non-public materials are retained beyond the time that they were needed for the expressed limited purposes, the more (unnecessary) risk there is that they will be inadvertently publicly disclosed or competitively misused.

Attachments 2 & 4. By stark contrast, in PostCom's motion, PostCom more reasonably seeks access only to the unredacted rates and Governors' decision, but not also the two unredacted spreadsheets. UPS has made no showing as to why all of the data within the spreadsheets are necessary for it to provide comments on the issues relevant to this case, which absence of showing is all the more glaring when PostCom has determined that only the unredacted Attachments 2 & 4 are needed in order to provide meaningful comments on the same issues.

But even assuming that the Commission were further inclined to grant UPS access to some particular portions of the unredacted financial spreadsheets (e.g., to show under protective conditions the cost coverage of the rates), the Commission at the very least should still deny access to the country-specific figures within those spreadsheets. There is simply no reason why UPS would need a breakdown of the separate component volumes and weights of letter post mail dispatched to the U.S. from each separate individual foreign country, rather than the aggregate totals of such volumes and weights dispatched to the U.S. from the other countries collectively. The Postal Service could, for example, produce for access under the protective conditions only the figures appearing within the unredacted tabs numbered 1, 2, & 7 of the two spreadsheets (which include the cost coverage figures in tab 7), still avoiding unnecessary disclosure of the country-specific data appearing in tabs 3, 4, 5, & 6.

Moreover, the risks of even inadvertent public disclosure or competitive misuse of the country-specific data threaten harm in the competitive marketplace not only to the Postal Service, but also to the many foreign postal operators of the world. Some have expressed their own concerns over these risks of disclosure and misuse of their

commercially sensitive data, notwithstanding the protective conditions that are meant to mitigate them. The Postal Service has attached letters of opposition from some of the designated postal operators with which it exchanges substantial volumes of mail, including the designated postal operators of Australia (Australian Postal Corporation), Canada (Canada Post Corporation), and the United Kingdom (Royal Mail Group Limited) (accompanying this Response as Attachments 1, 2, & 3, respectively). As those operators emphasize, their country-specific data are particularly vulnerable. Accordingly, at the very least, the Commission should refrain from ordering any access that would reveal the specific volumes and weights of the mail streams dispatched from the individual countries (as opposed to the aggregated totals from multiple countries).

For the foregoing reasons, the Postal Service respectfully urges the Commission to deny the Motions in part as described above, by limiting the scope of access under the Commission's protective conditions to the unredacted Attachments 2 & 4 or, in the alternative, to those two unredacted Attachments as well as the unredacted data in the financial spreadsheets that are not specific to individual foreign countries.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
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April 27, 2020



24 April 2020

Mr Jeffrey A. Rackow

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Dear Mr Rackow

**United Parcel Service ("UPS") and Association for Postal Commerce ("PostCom")
Motions Requesting Access to Non-Public Materials contained within CP2020-120**

I write on behalf of the Australian Postal Corporation ("**Australia Post**") which - as you are aware - is a statutory corporation established by laws of the Commonwealth of Australia, and is the Designated Postal Operator for Australia and its external territories.

Australia Post has been made aware of, and has examined, the motions lodged by UPS and PostCom in CP 2020-120 which request access to certain non-public materials which are contained within Annexures to the USPS filing of proposed E Format self-declared rates for the period after January 1st, 2021.

Australia Post wishes to respectfully advise the PRC of Australia Post's strong concerns that any grant of access to those elements of the non-public materials which contain information about Australia Post's international mail business would almost certainly expose commercially sensitive information pertaining to Australia Post's International Mail business, and potentially expose Australia Post to commercial harm.

In this regard, Australia Post notes, and fully supports and endorses, the comments which have been made by USPS in its Application for Non-Public Treatment.

By way of further explanation:

The market for exchange of postal articles, packets and parcels between Australia and the US is, as you are aware, highly competitive and strongly contested.

To the extent that the non-public information in Docket CP 2020-120 contains any data concerning the exchange of postal articles packets and parcels by and between Australia Post and USPS, and which is wholly or partially in the nature of data concerning

- article volumes,
- mail article types
- types,
- weights,
- sizes,
- dispersions, costs,
- charges,
- revenues,
- discounts,
- special lodgement processing or carriage terms,
- delivery timetables, and
- performance targets and measurements,

Australia Post submits that:

- a) the data and information is, by its nature, highly commercially sensitive, and represents a valuable component of Australia Post's accrued corporate intellectual property,
- b) disclosure of the information would be strongly likely have a significant detrimental impact upon Australia Post, and would immediately provide postal industry participants and current or potential competitors with information which could be used to harm Australian Post's legitimate commercial interests, and interfere with existing customer relationships,

Australia Post accordingly endorses and strongly supports the actions proposed to be taken by USPS to request that the PRC deny access to the non-public material as has been sought.

Should you require any further information or comment, please feel free to contact me

Yours sincerely

Scott Staunton

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April 27, 2020

Via electronic mail

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**Re. Motions by UPS and PostCom for Access to Non-public Material Containing Third Party
Information in PRC Docket No. CP2020-120**

Dear Mr. Rackow,

Canada Post Corporation (CPC) appreciates the efforts of USPS to oppose those elements of the above Motions pertaining to third-party information. Given the magnitude of the letter and parcel flows between USPS and CPC; and the highly competitive nature of the United States/Canada cross-border business; and the seriousness and significance of the impact on CPC's revenues and legitimate commercial interests of improper disclosure of its commercially-sensitive information, which CPC strongly believes would not be adequately protected by the Protective Conditions proposed by the above Motions, especially considering the lack of enforcement tools for CPC; CPC most emphatically supports USPS' position requesting the PRC to order that access should be denied to the non-public material set forth in PRC Docket No. CP 2020-120.

Thank you.



Joanna Hatt
Senior Legal Counsel, Canada Post Corporation

JH/dlr

24 April 2020

Royal Mail Group

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By Email Only

Dear Sirs

**Re: Postal Regulatory Commission – Docket No. CP2020-120
Motions filed by the Association for Postal Commerce (PostCom)(Filing
112963) and United Parcel Service Inc (UPS) for Access for Non-Public
Materials (Filing 112959) from the United States Postal Service (USPS) (the
Motions)**

Notice of Objection to the Motions

I write on behalf of Royal Mail Group Limited (**Royal Mail**), the United Kingdom's Designated Postal Operator for Universal Postal Union.

Royal Mail has reviewed the Motions cited above, which both seek access to certain non-public materials including in particular, country specific information about rates, volumes and weights of E-format and registered letter post items despatched to the United States during the period October 2018 to September 2019.

The information that has been sought pursuant to the Motions insofar that it relates to postal traffic from Royal Mail to USPS is confidential and highly commercially sensitive. Disclosure of such information is likely to have a detrimental effect on Royal Mail as it will provide postal industry competitors (of which UPS is one) with information that can be used to harm Royal Mail's legitimate commercial interests.

Royal Mail's competitors such as UPS (or trade representative bodies such as PostCom) or its external advisers do not and should not have access to data

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concerning the exchange of postal articles, packets and parcels by and between Royal Mail and USPS, including information about price, volume; weight and type.

Royal Mail respectfully requests that the Motions not be granted and the information sought by UPS and PostCom not be provided to them or their outside counsel or consultants. In the event that such information does need to be disclosed, Royal Mail submits that it must be aggregated on a regional basis rather than country basis in order to minimise the risk of harm to Designated Postal Operators such as Royal Mail.

Yours faithfully,

L.Ryan

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